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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,165	09/30/2005	Yasunori Matsui	SONYJP 3.3-337	4214
530 7590 07/06/2007 LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			EXAMINER YOUNG, JANELLE N	
			ART UNIT 2618	PAPER NUMBER
			MAIL DATE 07/06/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/529,165	Applicant(s) MATSUI ET AL.	
	Examiner Janelle N. Young	Art Unit 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 30, 2007 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1 and 3 have been considered but are moot in view of the new ground(s) of rejection.

What Fukawa and Tymes et al. do not explicitly teach is a wireless communication terminal having predetermined data that includes at least any of video data and audio data and other mass data being continuously streamed via said transceiver; which reads on claimed base stations (Col. 3, line 64-Col. 4, line 32 of Mitchell).

However, Mitchell teaches a communication system is provided for use with a mobile platform that relates to a data delivery system for on-board entertainment and office systems of mobile platforms. In general, on-board entertainment and office systems can be utilized to generate video images and audio content for occupants of a

mobile platform. The video images and audio content can be related to movies, telephone conversations, and other entertainment-based or business-based material. This reads on claimed wherein said predetermined data includes at least any of video data and audio data and other mass data being continuously streamed via said base stations (Abstract; Col. 1, lines 23-32 of Mitchell). In addition, Mitchell teaches a need for efficient delivery of data; such as movies, programs, and internet data (Col. 3, lines 10-23; Col. 16, lines 16-32; Col. 21, line 35-Col. 22, line 21 of Mitchell).

Response to Amendment

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 & 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukawa (US Patent 5568654) and further in view of Tymes et al. (US Patent 5668803).

As for claim 1, Fukawa teaches a wireless communication terminal comprising:

selecting means for selecting a base station with which to communicate;
detecting means for detecting a radio wave reception level of the base station selected by said selecting means; and selection controlling means which, if the detected radio wave reception level from said detecting means drops below said predetermined level during reception of said predetermined data, then causes

said selecting means preferentially to select a base station which is streaming said predetermined data and which offers a radio wave reception level higher than said predetermined level, based on the radio wave reception level of each base station selected and on the ongoing streaming of said predetermined data therefrom (Abstract; Col. 1, lines 26-49; Col. 2, line 52-Col. 3, line 12; Col. 12, lines 47-65; and Col. 13, lines 35-64 of Fukawa) and

What Fukawa does not explicitly teach is a wireless communication terminal that checks whether a new base station is already transmitting the particular data needed by the receiving device.

However, Tymes et al. teaches a wireless communication terminal that determining means for determining whether said base station selected by said selecting means is already streaming predetermined data and switchover controlling means which, if the detected radio wave reception level from said detecting means drops below a predetermined level, then causes said selecting means to switch to other base stations consecutively for communication while checking each base station selected for the radio wave reception level thereof and for ongoing streaming of said predetermined therefrom (Col. 5, lines 8-23; Col. 17, lines 1-32; Col. 18, lines 11-22; and Col. 23, line 49 in respect to Col. 29, line 29-Col. 30, line 5 of Tymes et al.).

What Fukawa and Tymes et al. do not explicitly teach is a wireless communication terminal having predetermined data that includes at least any of video data and audio data and other mass data being continuously streamed via said

transceiver; which reads on claimed base stations (Col. 3, line 64-Col. 4, line 32 of Mitchell).

However, Mitchell teaches a communication system is provided for use with a mobile platform that relates to a data delivery system for on-board entertainment and office systems of mobile platforms. In general, on-board entertainment and office systems can be utilized to generate video images and audio content for occupants of a mobile platform. The video images and audio content can be related to movies, telephone conversations, and other entertainment-based or business-based material. This reads on claimed wherein said predetermined data includes at least any of video data and audio data and other mass data being continuously streamed via said base stations (Abstract; Col. 1, lines 23-32 of Mitchell). In addition, Mitchell teaches a need for efficient delivery of data; such as movies, programs, and internet data (Col. 3, lines 10-23; Col. 16, lines 16-32; Col. 21, line 35-Col. 22, line 21 of Mitchell).

It would have been obvious to one of ordinary skill of the art at the time the invention was made to incorporate a protocol for packet data communication system, as taught by Tymes et al., in the mobile radio telecommunication system of Fukawa, because Fukawa already teaches checking each base station for the radio wave reception level and/or the signal strength (Abstract of Fukawa). Fukawa teaches a wireless communication terminal, wherein said predetermined data includes at least any of video and audio data and other mass data being delivered continuously via said base stations (Col. 5, lines 62-66; Col. 6, lines 25-30 & 55-63; and Col. 6, line 67-Col. 7, line 6 of Fukawa).

In addition, Mitchell discloses communication systems, which can adjust to provide a continuous video stream (Col. 3, lines 52-61 of Mitchell).

The motivation of this combination would be to provide a mobile radio telecommunication system having unique zone architecture and channel assignment, as taught by Fukawa in Col. 2, lines 52-58, because it would allow the base stations to be situated relatively easily, free base stations, and mobile stations from extra loads. The combination would provide an improved, low-cost, low-power, packet data communication network in which a number of remote terminal units are in a form of two-way communication with a central station, preferably a network using an RF link or the like so that the remote units may move about freely in an area to be covered by the network (Col. 3, lines 6-29 of Tymes et al.). The incorporation of protocol for packet data communication system with mobile radio telecommunication system would allow the transceiver/ base station to operate continuously and recognize incoming signals at any time rather than being off most of the time (Col. 17, lines 25-29 of Tymes et al.).

As for claim 2, Applicant has cancelled claim.

Regarding claim 3, see explanation as set forth regarding claim 1 (device claim) because the claimed method for planning a wireless communication terminal would perform the device steps.

As for claim 4, Applicant has cancelled claim.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janelle N. Young whose telephone number is (571) 272-2836. The examiner can normally be reached on Monday through Friday: 8:30 am through 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on (571) 272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JNY
June 18, 2007


NAY MAUNG
SUPERVISORY PATENT EXAMINER